

ALLIANCE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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MASSACHUSETTS DEVELOPMENT FINANCE AGENCY, )

Plaintiff )

v. )

ADP MARSHALL, INC., a FLUOR DANIEL COMPANY, and )  
FIREMAN'S FUND INSURANCE COMPANY, )

Defendants )

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) CIVIL ACTION

) NO. 04-CV-10203-PBS

ADP MARSHALL, INC., )

Plaintiff-in-Counterclaim, )

v. )

MASSACHUSETTS DEVELOPMENT FINANCE AGENCY, )

Defendant-in-Counterclaim )

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ADP MARSHALL, INC., )

Third-Party Plaintiff )

v. )

ALLIED CONSULTING ENGINEERING SERVICES, INC., )  
ANDOVER CONTROLS CORPORATION, R&R WINDOW )  
CONTRACTORS, INC. and DELTA KEYSpan, INC. n/k/a )  
DELTA KEYSpan, LLC, )

Third-Party Defendants )

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**EXPERT DISCLOSURE OF THE THIRD-PARTY DEFENDANT, ALLIED**  
**CONSULTING ENGINEERING SERVICES, INC.**

Pursuant to Fed. R. Civ. P. 26(a)(2) and the Court's Second Scheduling Order, the third-party defendant, Allied Consulting Engineering Services, Inc. ("Allied"), designates Kenneth M. Elovitz, PE as an expert witness in the above-captioned matter. Consistent with the requirements of Rule 26(a)(2), Allied has attached hereto the Expert Report of Kenneth M. Elovitz, PE, which has been served on all counsel of record in this matter. Allied's Expert Designation, which has been served on all counsel of record and previously filed with the Court contained: 1) a comprehensive statement concerning Mr. Elovitz's opinion; 2) the bases for that opinion; 3) Mr. Elovitz's qualifications; and 4) a listing of other cases in which Mr. Elovitz has served as an expert witness. Allied therefore incorporates by reference its Expert Designation, as that information is required by Rule 26(a)(2)(B). Allied also provides the below list of Mr. Elovitz's publications as required by Rule 26(a)(2)(B). Allied reserves the right to supplement this disclosure upon receipt of any additional expert disclosure submitted by the Plaintiff or Third-Party Plaintiff.

KENNETH M. ELOVITZ, PE  
LIST OF PUBLICATIONS

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2. "Architects and Engineers in the Court Room", *Journal of the National Academy of Forensic Engineers*, Vol. III, No. 2, December 1986.
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4. "Calculating Optimum filter Change Intervals", *ASHRAE Transactions*, Vol. 94, Part 1, American Society of Heating, Refrigerating, and Air Conditioning Engineers, Atlanta, GA, 1988.

5. "Selecting an HVAC System", *Plant Engineering*, Vol. 44, No. 1, Cahners Publishing Company, Des Plaines, IL, January 11, 1990.
6. "Filing suit within proper time limits", *Consulting-Specifying Engineer*, Vol. 7, No. 5, Cahners Publishing Company, Des Plaines, IL, April 1990.
7. "Commands to appear: What are your rights and obligations?", *Consulting-Specifying Engineer*, Vol. 8, No. 1, Cahners Publishing Company, Des Plaines, IL, July 1990.
8. "Liability for developing codes and standards", *Consulting-Specifying Engineer*, Vol. 8, No. 3, Cahners Publishing Company, Des Plaines, IL, September 1990.
9. "Thermal Storage Savings Calculations", proceedings of the Thirteenth World Energy Engineering Congress, Association of Energy Engineers, Atlanta, GA, October 1990.
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15. "Computer Liability for Engineers: Part I", *Consulting-Specifying Engineer*, Vol. 13, No. 3, Cahners Publishing Company, Des Plaines, IL, March 1993.
16. "Computer Liability for Engineers: Part 2: Defenses and Remedies", *Consulting-Specifying Engineer*, Vol. 13, No. 5, Cahners Publishing Company, Des Plaines, IL, April 1993.
17. "Understanding Smoke Management and Control", *ASHRAE Journal*, Vol. 35, No. 4, American Society of Heating, Refrigerating, and Air Conditioning Engineers, Atlanta, GA, April 1993.

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19. "Computer-Related Liability for Engineers", *APEC Journal*, Vol. XXVIII, No. 1, APEC, Inc., Dayton, OH, Spring 1993.
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22. "Variable-Speed Drives: What They Do and When To Use Them", *Heating/Piping/Air Conditioning*, Vol. 65, No. 12, Penton Publishing Company, Cleveland, OH, December 1993.
23. "Can Your Plant Benefit From Free Cooling?" (part 2), *Plant Engineering*, Vol. 48, No. 4, Cahners Publishing Company, Des Plaines, IL, March 1994.
24. "Can Your Plant Benefit From Free Cooling?" (part 3), *Plant Engineering*, Vol. 48, No. 5, Cahners Publishing Company, Des Plaines, IL, April 1994.
25. "Delegating Engineering Responsibility Does Not Include Delegating Accountability", *Consulting-Specifying Engineer*, Vol. 15, No. 5, Cahners Publishing Company, Des Plaines, IL, May 1994.
26. "Gaining Expertise on Experts", presented at the 33rd Annual Meeting of Invited Attorneys conducted by CNA Insurance and Victor O. Schinnerer & Co., Chicago, June 1994.
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29. "Construction-Site Safety: Engineer or Contractor Responsibility?", *Consulting-Specifying Engineer*, Vol. 16, No. 6, Cahners Publishing Company, Des Plaines, IL, December 1994.
30. "Forming Contracts for Engineering Services", *Consulting-Specifying Engineer*, Vol. 18, No. 1, Cahners Publishing Company, Des Plaines, IL, July 1995.

31. "Avoiding the 10 "Demandments" of Contract Negotiations", *Consulting-Specifying Engineer*, Vol. 18, No. 3, Cahners Publishing Company, Des Plaines, IL, September 1995.
32. "Arbitration: Panacea or Peril?", *Consulting-Specifying Engineer*, Vol. 18, No. 6, Cahners Publishing Company, Des Plaines, IL, December 1995.
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45. "Failing to Anticipate Failure", *Consulting-Specifying Engineer*, Vol. 24, No. 3, Cahners Publishing Company, Des Plaines, IL, September 1998.
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65. "Hydronic Heating: Two Systems Compared", *ASHRAE Journal*, Vol. 43, No. 7, American Society of Heating, Refrigerating, and Air Conditioning Engineers, Atlanta, GA, July 2001.
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77. "Be Careful What You Agree to Do", *ASHRAE Journal*, Vol. 46, No. 8, American Society of Heating, Refrigerating, and Air Conditioning Engineers, Atlanta, GA, August 2004.
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79. "A New Law Affects Standards Writing", *Consulting-Specifying Engineer*, Vol. 36, No. 3, Cahners Publishing Company, Oak Brook, IL, September 2004.

Respectfully submitted,

ALLIED CONSULTING ENGINEERING  
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By its Attorneys

s/ Jay S. Gregory

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Dated: May 18, 2005

**CERTIFICATE OF SERVICE**

I, Jay S. Gregory, Esquire, hereby certify that on this 18th day of May, 2005, the foregoing was served electronically to:

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